

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of the Department of Insurance and Financial Services

In the matter of:

Leigh Harter Speech Services PLLC
Petitioner

File No. 21-1827

v

Auto-Owners Insurance Company
Respondent

Issued and entered
this 31st day of January 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On December 8, 2021, Auto-Owners Insurance Company (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of Auto-Owners Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Respondent issued the Petitioner a written notice of the Respondent's determination under R 500.64(1) on December 7, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the date of service at issue.

The Department accepted the request for an appeal on December 10, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on December 10, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on January 4, 2022.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on January 25, 2022.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for speech therapy treatments rendered on November 1, 2021. The Current Procedural Terminology (CPT) code at issue is 92507, which is described as under treatment of an auditory processing disorder. In its determination, the Respondent referenced Official Disability Guidelines (ODG) and stated that the speech therapy provided to the injured person did not meet the medical necessity criteria of a “clinically documented functional speech or swallowing disorder with inability to perform at previous functional levels.”

With its appeal request, the Petitioner submitted clinical notes which identified the injured person’s diagnosis as unspecified intracranial injury with loss of consciousness greater than 24 hours with return to pre-existing conscious level. The Petitioner indicated that the injured person was involved in a motor vehicle accident in July of 2018. The Petitioner stated in its appeal that “speech therapy services are reasonable and medically necessary as [the injured person] has difficulty with executive functioning skills, short-term memory recall and new learning” and that “speech therapy provides compensatory strategies.”

The Petitioner’s request for an appeal further stated:

Speech services are medically necessary for [the injured person] to work on the following areas: sustained, divided and alternating attention; executive functioning; short-term and working memory; time management, task initiation, task completion, and follow-through; visual and verbal problem-solving with functional tasks and new learning; and community reintegration and self-awareness. [The injured person] has been provided with home exercise program (HEP) tasks to prepare tasks to complete with assistance from the speech-language pathologist (SLP) ahead of time. [The injured person] continues to require at least [minimal-moderate] verbal prompting to complete tasks provided.

In its reply, the Respondent reaffirmed its position and stated that the injured person first began speech therapy on October 4, 2018 and was discharged from speech therapy in April 2019 “because he met all established goals.” Following a neuropsychological evaluation, the injured person began a second round of speech therapy on February 11, 2021 to work on “cognitive weaknesses” as the injured person was pursuing a college program. The Respondent noted that the injured person discontinued his educational pursuits, began alternative employment, and received attendant care assistance for activities of daily living. The Respondent further stated in its reply:

The second course of speech therapy (over 2 ½ years post-MVA) has exceeded ODG guidelines of 30 visits. There is also no documented indication for speech therapy 2 ½ years post-MVA especially considering that the [injured person] discontinued his educational pursuits (the reason therapy was prescribed)...The medical records and the [Petitioner’s] response do not provide any evidence that there has been any functional improvement over the course of 42 visits. The [Petitioner] also does not provide any medical documentation from the [injured

person's] treating physicians to outline why continued therapy far in excess of ODG is medically or reasonably necessary.

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was not supported on the dates of service at issue and the treatment was overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is a medical doctor who is board-certified in physical medicine and rehabilitation. In its report, the IRO reviewer referenced R 500.61(i), which defines "medically accepted standards" as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, board, and associations. The IRO reviewer relied on the American Academy of Physical Medicine and Rehabilitation Guidelines (AAPMR), American Speech Language Hearing Association Guidelines, ODG, and medical literature for its recommendation.

The IRO reviewer explained that the AAPMR guidelines for mild traumatic brain injury state that "the treatment plan should be personalized for the individual" and that "prescribed courses of medications and therapies should be time-limited, with [the] goal being transition back to community-based activities as soon as possible." In addition, the IRO reviewer explained that, according to AAPMR guidelines for "chronic/stable" traumatic brain injuries, for "perhaps 10% of people with TBI, symptoms persist beyond three months post-injury.

The IRO reviewer opined:

In this case, there is no documentation of significant improvement with speech therapy during the 9/29/21 to 11/1/21 time frame, and therefore speech therapy on 11/1/21 would not be supported by the American Academy of Physical Medicine and Rehabilitation Guidelines, would not be considered medically necessary, and would be considered overutilized.

The IRO reviewer recommended that the Director uphold the Respondent's determination that the speech therapy treatment provided to the injured person on November 1, 2021 was not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director upholds the Respondent's determination dated December 7, 2021

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X *Sarah Wohlford*

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford